

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NATHANIEL JOHNSON,
 #927305

Plaintiff,

vs.

CHERYL, *et al.*,

Defendants.

2:11-cv-00291-JCM-GWF

ORDER

Presently before the court is defendant Jim Dixon's motion to dismiss plaintiff Nathaniel Johnson's second amended complaint. (Doc. #85). Plaintiff's opposition was due on March 17, 2012. Plaintiff failed to file an opposition. On April 9, approximately three weeks after the deadline passed, defendant Dixon filed a notice of non-opposition, informing the plaintiff that his failure to oppose the motion may result in the granting of the motion. (Doc. #93). To date, while plaintiff has actively litigated his suit against other defendants, he has failed to oppose defendant Dixon's motion to dismiss.

Pursuant to Local Rule 7-2(b), an opposing party's failure to file a timely response to any motion constitutes the party's consent to the granting of the motion and is proper grounds for dismissal. *U.S. v. Warren*, 601 F.2d 471, 474 (9th Cir. 1979). However, prior to dismissal, the district court is required to weigh several factors: "(1) the public's interest in expeditious resolution of litigation; (2) the court's

1 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
2 disposition of cases of their merits; and (5) the availability of less drastic sanctions.” *Ghazali v. Moran*,
3 46 F.3d 52, 53 (9th Cir. 1995) (citing *Henderson v. Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986)).

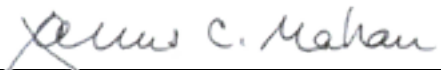
4 In light of the plaintiff’s failure to respond and weighing the factors identified in *Ghazali*, the
5 court finds dismissal appropriate.

6 Accordingly,

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Dixon’s motion to
8 dismiss (doc. #85) be, and the same hereby is, GRANTED.

9 Defendant Jim Dixon shall be dismissed from this suit.

10 DATED May 3, 2012.

11
12
13 
14 UNITED STATES DISTRICT JUDGE
15
16
17
18
19
20
21
22
23
24
25
26